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From: CN=Erin Foresman/OU=R9/O=USEPA/C=US
Sent: Tue 4/17/2012 5:09:12 PM
Subject: ? about CWA 404 as described in BDCP prelim admin DEIS
[EIR-EIS Chapter 8 - Water Quality 2-29-12.sflb.pdf](#)
<http://www.epa.gov/region9/water/watershed/sfbay-delta/index.html>

Hi All,

I'm reading through the prelim admin DEIS for BDCP and got to the paragraph written on 404. It is pasted below. The sentence highlighted in blue text is interesting. I am not aware of the place in regulation or in Guidance or guidance that supports the blue text sentence. Are any of you?

There are some mistakes in the paragraph that indicate there may be a lack of CWA 404 understanding by the person who drafted this text. But I thought I'd check in with you all re the blue sentence just in case. It would be a surprise to me if the sentence in blue is accurate.

Section 404 (p 8-108)

Under CWA Section 404, a program was established to regulate the discharge of dredged and fill 15 material into waters of the United States, including some wetlands via the issuance of NPDES permits. USACE is authorized to issue Section 404 permits. Activities in waters of the United States that are regulated under this program include fills for development, water resource projects (e.g., dams and levees), infrastructure development (e.g., highways and airports), and conversion of wetlands to uplands for farming and forestry. Under Section 404(b)(1) of the CWA, the Least Environmentally Damaging Practicable Alternative (LEDPA) must be identified from among those alternatives considered in detail in the Environmental Impact Statement (EIS)/Environmental Impact Report (EIR). If a federal agency is a partner in the implementation of a project, then the Proposed Action/Project must be recognized as the LEDPA. A Section 404(b)(1) evaluation will be included with the project's Final EIS/EIR pursuant to the CWA, to provide required information on the potential effects of project activities regarding water quality and to provide rationale in support of identifying the LEDPA. The Draft EIR/EIS will be reviewed by concerned members of the public and stakeholders while given the opportunity to provide comments on project alternatives and documentation.

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I work a part time schedule (M 7:30a - 4:00p, T - F 7:30a - 2:00p)